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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Jesus HERNANDEZ-Najera,** Defendant	Magistrate Docket No. '08 MJ 0572 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **February 26, 2008** within the Southern District of California, defendant, **Jesus HERNANDEZ-Najera,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James E. Bailey
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 27th DAY OF **FEBRUARY 2008**

Nita L. Stormes
UNITED STATES MAGISTRATE JUDGE

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CONTINUATION OF COMPLAINT:
Jesus HERNANDEZ-Najera

PROBABLE CAUSE STATEMENT

On February 26, 2008, Border Patrol Agent M. Rodriguez was working in the area known as Barret Smith Road. This area is approximately three and a half miles west of the Tecate, California Port of Entry and two miles north of the United States/Mexico International Boundary. At approximately 1:45 a.m., thermal scope operator, Senior Patrol Agent G. Hernandez spotted seven individuals walking north on a trail approaching Highway 94. Agent Rodriguez approached the seven individuals who were attempting to conceal themselves in the rocky area. Agent Rodriguez identified himself as a Border Patrol Agent and questioned the individuals as to their citizenship and immigration status. The seven individuals, including one later identified as the defendant **Jesus HERNANDEZ-Najera** admitted to being citizens and nationals of Mexico, not in possession of any immigration documents that would allow them to be or remain in the United States legally. All the individuals were arrested at approximately 2:00 a.m., and transported to the Brown Field Station for further processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **August 8, 2007** through **Laredo, Texas.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.